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EXAMINER

GILLIGAN, CHRISTOPHER L

ART UNIT

PAPER NUMBER

3626

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/660,495

Applicant(s)

KOEPEL ET AL.

Examiner

Luke Gilligan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2-4</u> . | 6) <input type="checkbox"/> Other: _____ |

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Claims 1-72 have been examined.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 8-10, 14-18, 21-23, 27-31, and 34-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Mason et al., U.S. Patent No. 6,401,075.

3. As per claim 1, Mason teaches a method for performing dynamic Web-based in-view monitoring, the method comprising the steps of: presenting a Web page including content to a plurality of users (see column 4, lines 5-9); collecting, for each user, user initiated responses to the content (see column 4, lines 20-25); analyzing the user initiated responses that are collected to determine user in-view characteristics (see column 6, lines 27-30); generating billing records based on the analysis of the user initiated responses (see column 5, lines 4-9); and sending the billing records to at least one of a plurality of third party entities (see column 5, lines 9-32).

4. As per claim 2, Mason teaches the method of claim 1 as described above, wherein the content includes a plurality of third party content and wherein presenting the Web page including the content further includes receiving each third party content from a respective third party entity included in the plurality of third party entities (see column 5, lines 20-31).

5. As per claim 3, Mason teaches the method of claim 2 as described above, wherein the billing records include a plurality of third party billing records, each third party billing record is

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associated with a respective third party content, and wherein the step of sending the billing records includes sending each third party billing record to a respective third party entity included in the plurality of third party entities (see column 5, lines 4-9).

6. As per claim 4, Mason teaches the method of claim 1 as described above, wherein the step of generating billing records includes: generating a content effectiveness record associated with the content and appending the content effectiveness record to at least one of the billing records, wherein the content effectiveness record includes data reflecting the effectiveness of the content based on the analysis of the user initiated responses (see column 4, lines 44-53).

7. As per claim 5, Mason teaches the method of claim 4 as described above, wherein the content effectiveness record includes information associated with user in-view characteristics relating to the content (see column 4, lines 44-53).

8. As per claim 8, Mason teaches the method of claim 4 as described above, wherein the content effectiveness record includes a report indicating a plurality of user activities associated with the content and information indicating proposed changes to the content based on the user activities (see column 4, lines 54-67).

9. As per claim 9, Mason teaches the method of claim 8 as described above, wherein the proposed changes includes suggestions to modify selected attributes of the content (see column 4, line 67 – column 5, line 3).

10. As per claim 10, Mason teaches the method of claim 9 as described above, wherein the selected attributes include at least one of color, font, position, rendering time, and multimedia characteristics (see column 4, line 67 – column 5, line 3).

11. Claims 14-18 and 21-23 contain substantially similar system limitations to method claims 1-5 and 8-10 and, as such, are rejected for similar reasons as given above.

12. Claims 27-31 and 34-36 contain substantially similar computer readable medium limitations to method claims 1-5 and 8-10 and, as such, are rejected for similar reasons as given above.

13. Claims 40-47, 50-58, 61-69, and 72 are rejected under 35 U.S.C. 102(e) as being anticipated by Himmel et al., U.S. Patent No. 6,317,782.

14. As per claim 40, Himmel teaches a method for performing dynamic Web-based in-view monitoring, the method comprising the steps of: appending a client side routine to a Web page provided by a Web server (see column 8, lines 13-22); sending the Web page to a plurality of client nodes (see column 8, lines 22-28 and Figure 5); and displaying the Web page to a plurality of users located at respective client nodes, and in response to the Web page being displayed to each user, each client node initiating the client side routine to perform the steps of: detecting in-view user activities associated with each respective user browsing the Web page, wherein the in-view user activities are associated with in-view response data reflecting whether or not the content data was viewable to each respective user (see column 8, lines 22-28); collecting data reflecting the in-view user activities (see column 8, lines 40-53); detecting a client side trigger event (see column 8, lines 54-59); and sending the collected data to the Web server in response to the detected client side trigger event (see column 8, lines 59-65).

15. As per claim 41, Himmel teaches the method of claim 40 as described above, wherein the in-view user activities includes at least one of mouse pointer movements, screen scrolling, hyperlink selections, icon selections, data entry, time data associated with mouse pointer position, time data associated with content position and time data associated with screen scrolling (see column 9, lines 60-63).

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16. As per claim 42, Himmel teaches the method of claim 40 as described above, wherein the in-view user activities includes non-activated in-view response data reflecting whether the content data was viewable or partially viewable to each respective user, wherein the non-activated in-view response data is user response data that is not associated with a user activating a button, icon or hyperlink on the Web page (see column 9, lines 60-63).

17. As per claim 43, Himmel teaches the method of claim 40 as described above, wherein the client side routine is appended to a URL placed on the Web page (see column 8, lines 20-22).

18. As per claim 44, Himmel teaches the method of claim 40 as described above, wherein the collected data is stored in a client side data store and each client side trigger event is associated with each respective client side data store being filled with the collected data above a predetermined threshold level (see column 8, lines 54-65).

19. As per claim 45, Himmel teaches the method of claim 40 as described above, wherein the client side trigger event is associated with a respective user closing a browser application executing at a respective client node (see column 10, lines 6-26).

20. As per claim 46, Himmel teaches the method of claim 40 as described above, wherein each client side trigger event is associated with a respective user, located at a respective client node, selecting a URL displayed on the Web page (see column 9, lines 28-41).

21. As per claim 47, Himmel teaches the method of claim 40 as described above, wherein the collected data reflecting the in-view user activities includes information indicating the proportion of content actually viewable to a respective user (see column 10, lines 11-14).

22. As per claim 50, Himmel teaches the method of claim 40 as described above, wherein the in-view user activities are mouse pointer position data (see column 9, line 60 – column 10, line 5).

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23. Claims 51-58 and 61 contain substantially similar system limitations to method claims 40-47 and 50 and, as such, are rejected for similar reasons as given above.

24. Claims 62-69 and 72 contain substantially similar computer readable medium limitations to method claims 40-47 and 50 and, as such, are rejected for similar reasons as given above.

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claims 6-7, 11-13, 19-20, 24-26, 32-33, and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mason et al., U.S. Patent No. 6,401,075 in view of Himmel et al., U.S. Patent No. 6,317,782.

27. As per claim 6, Mason teaches the method of claim 6 as described above. Mason does not explicitly teach the user in-view characteristics includes information reflecting whether the content was viewable or partially viewable by a user. Himmel teaches a method for tracking advertising documents including collecting data regarding whether content was viewable or partially viewable by a user (see column 9, lines 60-63). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Mason. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of providing more accurate billing of advertisers based on actual viewing of advertisements (see column 3, lines 42-53 of Himmel).

28. As per claim 7, Mason in view of Himmel teach the method of claim 6 as described above. Mason does not explicitly teach user in-view characteristics include information

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associated with at least one of user mouse position data, user screen scrolling position data and time data associated with the mouse position and screen scrolling position data. Himmel further teaches that user in-view characteristics include information associated with at least one of user mouse position data, user screen scrolling position data and time data associated with the mouse position and screen scrolling position data (see column 9, lines 60-63). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Mason for the reasons given above with respect to claim 6.

29. As per claim 11, Mason teaches the method of claim 1 as described above. Mason does not explicitly teach collecting user in-view response data reflecting whether the content was viewable or partially viewable by a user. Himmel teaches a method for tracking advertising documents including collecting data regarding whether content was viewable or partially viewable by a user (see column 9, lines 60-63). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Mason. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of providing more accurate billing of advertisers based on actual viewing of advertisements (see column 3, lines 42-53 of Himmel).

30. As per claim 12, Mason in view of Himmel teach the method of claim 11 as described above. Mason does not explicitly teach the user in-view response data includes at least one of user mouse position data, user screen scrolling position data and time data associated with the mouse position and screen scrolling position data. Himmel further teaches that user in-view response data includes at least one of user mouse position data, user screen scrolling position data and time data associated with the mouse position and screen scrolling position data (see column 9, lines 60-63). It would have been obvious to one of ordinary skill in the art at the time

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of the invention to incorporate this feature into the system of Mason for the reasons given above with respect to claim 11.

31. As per claim 13, Mason teaches the method of claim 1 as described above. Mason does not explicitly teach collecting non-activated in-view response data reflecting whether the content was viewable or partially viewable to each respective user, wherein the non-activated in-view response data is user response data that is not associated with a user activating a button, icon or hyperlink on the Web page. Himmel teaches collecting non-activated in-view response data reflecting whether the content was viewable or partially viewable to each respective user, wherein the non-activated in-view response data is user response data that is not associated with a user activating a button, icon or hyperlink on the Web page (see column 9, lines 60-63). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Mason. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of providing more accurate billing of advertisers based on actual viewing of advertisements (see column 3, lines 42-53 of Himmel).

32. Claims 19-20 and 24-26 contain substantially similar system limitations to method claims 6-7 and 11-13 and, as such, are rejected for similar reasons as given above.

33. Claims 32-33 and 37-39 contain substantially similar computer readable medium limitations to method claims 6-7 and 11-13 and, as such, are rejected for similar reasons as given above.

34. Claims 48-49, 59-60, and 70-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himmel et al., U.S. Patent No, 6,317,782 in view of Mason et al., U.S. Patent No. 6,401,075.

35. As per claim 48, Himmel teaches the method of claim 40 as described above. Himmel does not explicitly teach analyzing the collected data at the Web server; generating billing records based on the analysis of the collected data; and sending the billing records to at least one of a plurality of third party nodes. Mason teaches analyzing the collected data at the Web server (see column 6, lines 27-30); generating billing records based on the analysis of the collected data (see column 5, lines 4-9); and sending the billing records to at least one of a plurality of third party nodes (see column 5, lines 9-32). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate these features into the system of Himmel. One of ordinary skill in the art would have been motivated to incorporate these features for the purpose of enhancing the billing functions of Himmel (see column 3, lines 42-53 of Himmel).

36. As per claim 49, Himmel in view of Mason teaches the method of claim 48 as described above. Himmel does not explicitly teach the content data includes a plurality of third party content data, and wherein each third party content data is provided by a respective one of the plurality of third party nodes. Mason teaches the content data includes a plurality of third party content data, and wherein each third party content data is provided by a respective one of the plurality of third party nodes (see column 5, lines 20-31). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Mason for the reasons given above with respect to claim 48.

37. Claims 59-60 contain substantially similar system limitations to method claims 48-49 and, as such, are rejected for similar reasons as given above.

38. Claims 70-71 contain substantially similar computer readable medium limitations to method claims 48-49 and, as such, are rejected for similar reasons as given above.

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Conclusion


39. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


- Davis teaches a method for tracking client interaction with network resources.
- Roth teaches tracking user activities for Internet advertising.
- Krishan teaches delivering targeted information over the Internet.

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke Gilligan whose telephone number is (703) 308-6104. The examiner can normally be reached on Monday-Friday 8am-5:30pm.

41. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

42. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


CLG
3/21/04


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